

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Daniel Granda)	File No. EB-03-LA-050
)	File No. EB-2002-347
Licensee of Amateur Station KA6VHC)	NAL/Acct. No. 200432900001
Whittier, California)	FRN: 0008889461

MEMORANDUM OPINION AND ORDER

Adopted: February 27, 2007**Released: March 1, 2007**

By the Assistant Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Memorandum Opinion and Order* (“*Order*”), we grant, to the extent indicated herein, a petition for reconsideration (“petition”) filed by Mr. Daniel Granda (“Mr. Granda”), licensee of amateur radio station, call sign KA6VHC, Whittier, California. Mr. Granda seeks reconsideration of a *Forfeiture Order*¹ in which the Enforcement Bureau (“Bureau”) found Mr. Granda liable for a monetary forfeiture in the amount of eleven thousand dollars (\$11,000) for willful and repeated violation of Sections 308(b) and 333 of the Communications Act of 1934, as amended (“Act”),² and Sections 97.101(b) and 97.101(d) of the Commission’s Rules (“Rules”).³ The noted violations involve Mr. Granda’s failure to respond to official Commission correspondence and his intentional interference to amateur radio communications. For the reasons discussed below, we reduce the forfeiture amount to two thousand five hundred dollars (\$2,500).

II. BACKGROUND

2. In response to complaints of interference from his amateur station, the Bureau issued official Warning Notices to Mr. Granda on three separate dates (December 4, 2002, January 7, 2003 and January 13, 2003). In all three cases, Mr. Granda failed to respond to the Warning Notices. On several occasions beginning on March 6, 2003 through April 14, 2003, the Commission’s Los Angeles, California Field Office (“Los Angeles Office”) used direction finding equipment and techniques to determine that the operation of Mr. Granda’s amateur station, KA6VHC, resulted in interference to amateur radio communications. Moreover, during an inspection of KA6VHC on April 15, 2003, Mr. Granda admitted to an agent of the Los Angeles Office that he operated his station in a manner to gain exclusive use of an amateur frequency. The day after the inspection, April 16, 2003, the Los Angeles Office established that Mr. Granda’s station continued to be a source of interference to amateur communications.

¹ *Daniel Granda*, Forfeiture Order, 19 FCC Rcd 12781 (Enf. Bur. 2004)(“*Forfeiture Order*”).

² 47 U.S.C. §§ 308(b) and 333.

³ 47 C.F.R. §§ 97.101(b) and 97.101(d).

3. On March 31, 2004, the District Director of the Los Angeles Office issued to Mr. Granda a *Notice of Apparent Liability* (“NAL”)⁴ in the amount of \$11,000 for apparent willful and repeated violation of Sections 308(b) and 333 of the Act and Sections 97.101(b) and 97.101(d) of the Rules. Mr. Granda did not file a response to the *NAL*, and on July 9, 2004, the Bureau released a *Forfeiture Order* affirming the *NAL*. Mr. Granda filed a petition for reconsideration of the *Forfeiture Order* on August 9, 2004, requesting cancellation of the forfeiture. In his petition, Mr. Granda does not dispute our finding that he caused deliberate interference to amateur radio communications nor does he deny his failure to respond to official Commission correspondence. He does contend, however, that imposition of the full forfeiture amount would impose a financial hardship on him and his spouse. In support of his inability to pay claim, Mr. Granda submitted federal tax returns for the relevant three year period.

III. DISCUSSION

4. The forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,⁵ and Section 1.80 of the Rules,⁶ and *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.⁷ In examining Mr. Granda’s petition, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and any other such matters as justice may require.⁸

5. In analyzing a financial hardship claim, the Commission generally has looked to gross revenues as a reasonable and appropriate yardstick in determining whether a licensee is able to pay the assessed forfeiture.⁹ While we find that Mr. Granda willfully and repeatedly violated Sections 308(b) and 333 of the Act and Sections 97.101(b) and 97.101(d) of the Rules, based upon the financial documentation that he provided, we conclude that reduction of the \$11,000 forfeiture to \$2,500 is warranted.¹⁰ The reduction of the forfeiture amount, however, does not lessen the severity of the violations cited in this proceeding, specifically Mr. Granda’s intentional interference to radio communications. For that reason, we will further admonish Mr. Granda for his violations of Section 333 of the Act.¹¹

⁴ *Daniel Granda*, Notice of Apparent Liability for Forfeiture, NAL/Acct. No. 200432900001 (Enf. Bur., Los Angeles Office, released March 31, 2004).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. § 1.80.

⁷ 12 FCC Rcd 17087 (1997), recon. denied, 15 FCC Rcd 303 (1999) (“*Forfeiture Policy Statement*”).

⁸ 47 U.S.C. § 503(b)(2)(D).

⁹ See *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088 (1992) (“*PJB Communications*”).

¹⁰ See *Local Long Distance, Inc.*, Order on Reconsideration, 16 FCC Rcd 10023, 10025 (2001) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator’s gross revenues); *Hoosier Broadcasting Corporation*, Memorandum Opinion and Order, 15 FCC Rcd 8640, 8641 (Enf. Bur. 2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator’s gross revenues); *Alpha Ambulance, Inc.*, Order, 19 FCC Rcd 2547, 2548 (2004), citing *PJB Communications*, 7 FCC Rcd at 2089 (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator’s gross revenues).

¹¹ We have also asked the Wireless Telecommunications Bureau, Mobility Division to consider this violation in processing Mr. Granda’s pending license renewal application for KA6VHC (File No. 0001415722).

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Act¹² and Section 1.106 of the Rules,¹³ the petition filed by Daniel Granda **IS GRANTED TO THE EXTENT INDICATED HEREIN**.

7. **IT IS FURTHERED ORDERED** that, pursuant to Section 503(b)(2)(D) of the Act and Section 1.80 of the Rules, Daniel Granda **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$2,500 for willful and repeated violations of Sections 308(b) and 333 of the Act and Sections 97.101(b) and 97.101(d) of the Rules.

8. **IT IS FURTHER ORDERED** that Daniel Granda **IS ADMONISHED** for his intentional interference to amateur radio communications.

9. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.¹⁴ Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for full payment under an installment plan should be sent to: Associate Managing Director – Financial Operations, 445 12th Street, SW, Room 1-A625, Washington, D.C. 20554.¹⁵

10. **IT IS FURTHERED ORDERED** that a copy of this *Order* shall be sent by first class and certified mail, return receipt requested, to the address of record for Mr. Daniel Granda and to his counsel, Lewis H. Goldman, Esq., 45 Dudley Court, Bethesda, Maryland 20814.

FEDERAL COMMUNICATIONS COMMISSION

George R. Dillon
Assistant Chief, Enforcement Bureau

¹² 47 U.S.C. § 405.

¹³ 47 C.F.R. § 1.106.

¹⁴ 47 U.S.C. § 504(a).

¹⁵ See 47 C.F.R. § 1.1914.